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EXAMINER

LE, MICHAEL

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MANABU KII and TAKASHI KAWAKAMI

Appeal 2008-0708
Application 10/027,194
Technology Center 2100

Decided: July 29, 2008

Before JOSEPH L. DIXON, HOWARD B. BLANKENSHIP, and
STEPHEN C. SIU, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-10, 12-14, and 26, which are all the claims remaining in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

Claims 1 and 10 are illustrative.

1. A service offering system from a server to a terminal device, comprising:

recording means for recording a unique identifier to each of a plurality of package storage media issued;

a database for storing and managing the identifiers;

reading means for reading the recorded identifier from any of said package storage media at said terminal device;

checking means for checking the identifier read by said reading means against said identifiers managed in said database; and

service offering means for offering a service to said terminal device corresponding to the package storage medium identified by the checked identifier depending on a result of the check by said checking means.

10. A management server comprising:

receiving means for receiving right information that denotes services available to a package storage medium and identifiers from said package storage medium an issuing party that issues a plurality of storage media identified by said identifiers which differ from one another;

storing means for storing right information corresponding to each of the identifiers and said identifiers in a database; and

checking means for checking the identifier transmitted from a terminal device by way of a service provider against said identifiers stored in said storing means.

The Examiner relies on the following references as evidence of unpatentability.

Nusbickel	US 6,119,133	Sep. 12, 2000
Moskowitz	US 2002/0010684 A1	Jan. 24, 2002
Rice	US 2002/0174010 A1	Nov. 21, 2002

Claims 1-10, 12-14, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nusbickel, Moskowitz, and Rice.

We reverse the rejection of claims 1 through 9 and 26 for the reasons expressed by Appellants in the Appeal Brief in response to the rejection of those claims. However, we sustain the rejection of claims 10 and 12 through 14.

Instant claim 10 recites receiving means for receiving data, storing means for storing data, and checking means for checking data against other data. The information content of the data is not entitled to patentable weight in the analysis of patentability over the prior art.¹ Appellants' arguments based on the information content of what is received, stored, and checked rest on nonfunctional descriptive material. The *content* of nonfunctional descriptive material is not entitled to weight in the patentability analysis. *Cf. In re Lowry*, 32 F.3d 1579, 1583 (Fed. Cir. 1994) ("Lowry does not claim merely the information content of a memory. . . . Nor does he seek to patent the content of information resident in a database."). *See also Ex parte Nehls*

¹ Although claim 10 is in a "means plus function" format, the "means" are embodied in a broadly described server. (*See* Br. 5, "Summary of Claimed Subject Matter"; Spec. 19: 9 - 21: 21; Fig. 3.) The described corresponding structure for the "means" is a general purpose server. The data manipulated by the server does not change the underlying structure or function of any processors or memory that make up the server.

(BPAI Jan. 28, 2008), *available at* <http://www.uspto.gov/web/offices/dcom/bpai/prec/fd071823.pdf>; *Ex parte Curry*, 84 USPQ2d 1272 (BPAI 2005) (nonprecedential) (Fed. Cir. Appeal No. 2006-1003, *aff'd* Rule 36 Jun. 12, 2006); *Manual of Patent Examining Procedure* (MPEP) § 2106.01 (Eighth ed., Rev. 6, Sept. 2007).

Of the references applied against instant claim 10, at least Nusbickel and Rice describe servers that receive, store, and check data, which is sufficient to demonstrate unpatentability of the subject matter of claim 10. Claims 12 through 14, not separately argued, fall with claim 10. *See* 37 C.F.R. § 41.37(c)(1)(vii).

CONCLUSION

The rejection of claims 1-10, 12-14, and 26 under 35 U.S.C. § 103(a) as being unpatentable over Nusbickel, Moskowitz, and Rice is affirmed with respect to claims 10 and 12-14, but reversed with respect to claims 1-9 and 26.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED-IN-PART

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